

LETTER
FROM
THE SECRETARY OF WAR,
TRANSMITTING,

In response to Senate resolution of September 4, 1888, a report of the Chief of Engineers and accompanying maps, relative to the jurisdiction of waters in Detroit River and St. Clair Flats.

DECEMBER 10, 1888.—Referred to the Committee on Commerce.
JANUARY 5, 1889.—Ordered to be printed.

WAR DEPARTMENT,
Washington City, December 7, 1888.

The Secretary of War has the honor to transmit to the United States Senate a report, dated November 14, 1888, and accompanying maps, from the Chief of Engineers, the same being furnished in response to Senate resolution of September 4, 1888, as follows:

Resolved, That the Secretary of War be directed to report to the Senate whether, in the navigation of the Detroit River or the St. Clair Flats at the mouth of St. Clair River, the channels in ordinary use for commercial purposes are in waters under the jurisdiction of the United States or of the Dominion of Canada, and what difference exists, if any, in the depth of water available for the purposes of navigation between the parts of said river, or of said flats, which are within the respective jurisdictions named.

WILLIAM C. ENDICOTT,
Secretary of War.

The PRESIDENT PRO TEMPORE OF
THE UNITED STATES SENATE.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., November 14, 1888.

SIR: In reply to Senate resolution of September 4, 1888, which was referred to this office under date of September 5, 1888, the following report is submitted.

The resolution is as follows:

Resolved, That the Secretary of War be directed to report to the Senate whether, in the navigation of the Detroit River or the St. Clair Flats at the mouth of St. Clair River, the channels in ordinary use for commercial purposes are in the waters under the jurisdiction of the United States or of the Dominion of Canada, and what difference exists, if any, in the depth of water available for the purposes of navigation between the parts of said river, or of said flats, which are within the respective jurisdictions named.

In the navigation of the Detroit River, Lake St. Clair, and St. Clair Flats, commerce from Lake Erie usually follows the channel along the

left bank of the Detroit River and east of Bois Blanc Island, thence through the Limekiln Crossing and up the main channel of the Detroit River to Lake St. Clair, and thence across this lake and through the St. Clair Flats Canal into the St. Clair River.

In the decision of the Commissioners of June 18, 1822, defining the boundary between the United States and Canada according to the treaty of Ghent, concluded December 24, 1814, the following language is used in describing the part of the boundary including the Detroit River, Lake St. Clair, and the lower portion of St. Clair River:

Thence to the middle of the mouth of the Detroit River in a direction to enter the channel which divides Bois-Blanc and Sugar Islands; thence up the said channel to the west of Bois-Blanc Island and to the east of Sugar, Fox, and Stony Islands, until it approaches Fighting or Great Turkey Island; thence along the western side and near the shore of said last-mentioned island to the middle of the river above the same; thence along the middle of said river, keeping to the southeast of and near Hog Island, and to the northwest of and near the island called Isle a la Pêche, to Lake St. Clair; thence through the middle of said lake in a direction to enter that mouth or channel of the river St. Clair which is usually denominated the Old Ship Channel; thence along the middle of said channel, between Squirrel Island on the southeast and Herson's Island on the northwest, to the upper end of the last-mentioned island, which is nearly opposite to Point aux Chenes, on the American shore.

From this decision it appears that as the boundary passes west of Bois-Blanc Island the channel usually in use east of it lies wholly within the jurisdiction of the Canadian Government. Above the island the boundary follows the channel until it approaches Fighting or Great Turkey Island, and from thence northward the channel is wide, to and through Lake St. Clair, and easily navigated on either side the boundary line. At the junction of Lake St. Clair and St. Clair River, the Commissioners state that the boundary enters "that mouth or channel which is usually denominated the Old Ship Channel." The location of this channel, together with the terms of the treaty of May 8, 1871, determine the jurisdiction of the St. Clair Flats Canal, which was constructed by the United States, and at present is the principal line of communication in use between the lake and the river.

A series of maps accompanied the decision of the Commissioners, upon which the boundary is shown. Copies of two of these, one containing the Limekiln Crossing, and the other the entrance into Saint Clair River from the lake, are transmitted herewith. These are designated sheets 1 and 2, respectively. It will be observed that these maps show the lakes, river, and islands in outline only, and that although the decision states that the boundary should pass "thence up said channel to the west of Bois-Blanc Island and to the east of Sugar, Fox, and Stony Islands until it approaches Fighting or Great Turkey island," and therefore, through the Limekiln Crossing, which is a portion of the only channel in the Detroit River between Bois-Blanc Island and Fighting or Great Turkey Island, the line indicated upon the first-mentioned map (sheet 1) does not follow this channel, nor is the position of the channel given. A copy of a recent Lake-Survey chart (sheet 3), drawn to the same scale as sheet No. 1, and including this locality, is also transmitted for comparison. Upon this the channel referred to is shown with the boundary placed along the middle line of the original channel, or the channel as it was before the United States undertook its improvement, which is believed to be in accordance with the intention of the Commissioners and the text of their decision. This sheet also contains the Limekiln Crossing upon a larger scale, with the boundary line drawn upon it, and shows that all of the channel opened by the United States at the Limekiln Crossing is in American waters except the extreme northeast and southeast corners of the cut. The river and harbor act

of June 23, 1874, under which this work was commented, provided "for removing bowlders and rocks from the Detroit River, partly in Canadian waters," and nearly all the work that has been done by the United States at this point is west of the boundary as located on the said sheet.

Opposite Bois-Blanc Island there are three channels in the Detroit River, one between Bois-Blanc Island and the Canadian shore, in Canadian waters, available for a draught of 20 feet; one between Bois-Blanc Island and Gross Isle, through which the boundary line passes, and one between Gross Isle and the American shore, in American waters. The last two are available for a draught of only 12 feet.

There is also transmitted a tracing of a late Lake-Survey chart of Lake St. Clair (sheet 4,) showing the channels, shoals, etc., and the location of the St. Clair Flats Canal. Upon this map the boundary line as given upon the Commissioners' map has been carefully drawn. This passes to the eastward of the canal, except at its northeastern extremity where the boundary line intersects at an oblique angle, and 535 feet from its upper or northern end, the eastern line of sheet-piling limiting the canal, and passes 50 feet within the canal at its northern entrance. This canal is 300 feet wide between the limiting lines of sheet-piling.

The method of locating this portion of the boundary is fully described in a letter of Major (now Colonel) C. B. Comstock, Corps of Engineers, addressed to the Chief of Engineers, dated December 1, 1870, a copy of which is inclosed herewith.

It would therefore appear that if the question of jurisdiction is determined by the position of the boundary line between the United States and Canada, as decided by the Commissioners, all of the canal to the west of the line would be within the territory of the United States, and the portion to the east of the line within the territory of Canada. It is apparent by reference to the canal drawn on an enlarged scale upon sheet 4, that the exercise of jurisdiction by Canada over the exceedingly small portion of the canal to the east of the boundary could not in any way affect the use or control of the canal by the United States, and it was apparently the recognition of this fact and the desire to benefit the citizens of both countries that prompted the adoption of article 27 of the treaty of May 8, 1871, between the United States and Great Britain, which is as follows:

ART. 27. The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State government to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties on terms of equality with the inhabitants of the United States.

This article of the treaty would seem to acknowledge the jurisdiction of the United States over the St. Clair Flats Canal.

At the mouth of the St. Clair River there are two channels to the west of the St. Clair Flats Canal, communicating with Lake St. Clair, the north and south channels, having depths of 9 and 12 feet, respectively, which are wholly within the jurisdiction of the United States, and to the east of the canal there are three channels, viz, Bassetts, Johnson's, and the Chenal Ecarté, having depths of 6 feet, 4 feet, and

7 feet, respectively, which are under the control of the Dominion of Canada.

The resolution of the Senate is herewith returned.

Very respectfully, your obedient servant,

Hon. WILLIAM C. ENDICOTT,
Secretary of War.

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

LETTER OF MAJOR C. B. COMSTOCK, CORPS OF ENGINEERS.

UNITED STATES LAKE SURVEY,
Detroit, Mich., December 1, 1870.

GENERAL: In compliance with Engineer Department instructions of October 21, 1870, I have had a survey made of the new ship-canal at St. Clair Flats, and forward by express to-day (1), a published Lake Survey chart of 1857 of Lake St. Clair, showing the position of the ship-canal and of the boundary line between the United States and Canada across St. Clair Flats; (2), a tracing on a scale of $\frac{1}{2000}$, showing in detail the soundings taken this fall in the ship-canal and at its ends; and showing by more scattered numbers the depths of water in the old channel through the flats, the numbers being for the lower half of the old channel, from the survey of 1867.

The Department had sent me a copy of the decision of the Commissioners under the sixth and seventh articles of the treaty of Ghent, who established the boundary line through Lake St. Clair between the United States and Canada, and a copy of the map of the Commissioners, filed with that decision.

The decision fixes the boundary through Detroit River to Lake St. Clair; "thence through the middle of said lake, in a direction to enter that mouth or channel of the river St. Clair, which is usually denominated the Old Ship Channel; thence along the middle of said channel between Squirrel Island on the southeast and Herson's Island on the northwest," etc.

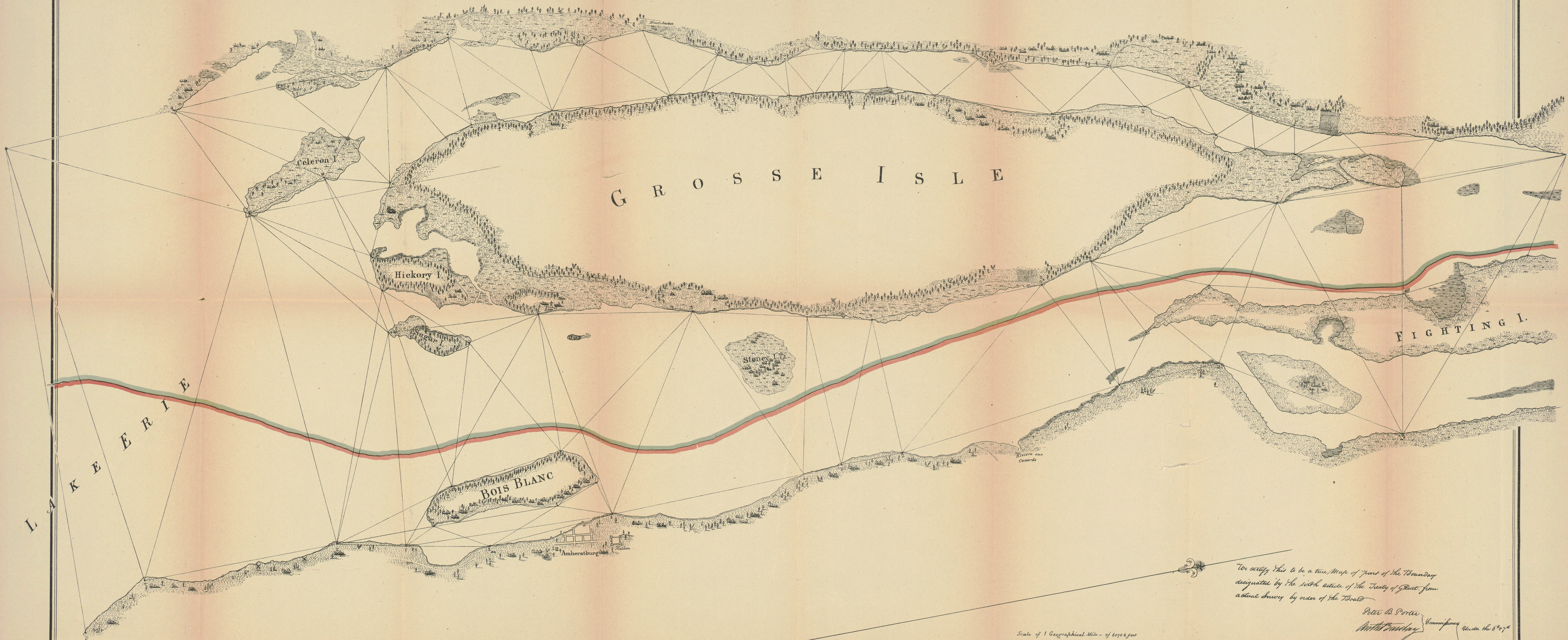
The mouth of the river St. Clair referred to by the Commissioners, as shown by their map, is now called the South Pass. The boundary line shown on the tracing sent herewith was determined as follows: The copy of the Commissioners' map was enlarged to the size of the Lake Survey map of 1857 of Lake St. Clair, and then being on tracing linen, was placed over and made to coincide as accurately as possible with the Lake Survey map, and the true bearing of 3 miles of the boundary line on the Commissioners' map, from the mouth of the South Pass, southwest, was determined to be S. 31° 15' W. (true). A point was then taken at mid-channel (midway between the 12-foot curves) of the South Pass, where it enters the lake, and a line drawn with the bearing, as above determined, for the boundary line.

It may be noticed that the decision of the Commissioners requires—though their map does not—that the boundary line should run through the middle of Lake St. Clair; this would require the boundary line to run almost due south on leaving the mouth of South Pass.

Very respectfully, your obedient servant,

C. B. COMSTOCK,
Major of Engineers.

General A. A. HUMPHREYS,
Chief of Engineers, U. S. A.



Scale of 1 Geographical Mile - of 6076 feet
Scale of 1 English Mile - of 5280 feet

NI
DETROIT
1820

We certify this to be a true Map of part of the Boundary designated by the sixth article of the Treaty of Peace from actual survey by order of the Board

Peter B. Porter
Amthor
William A. Smith
David Thompson
Surveyors under the 6th Art. of the Treaty of Peace



Copy of Chart
entitled

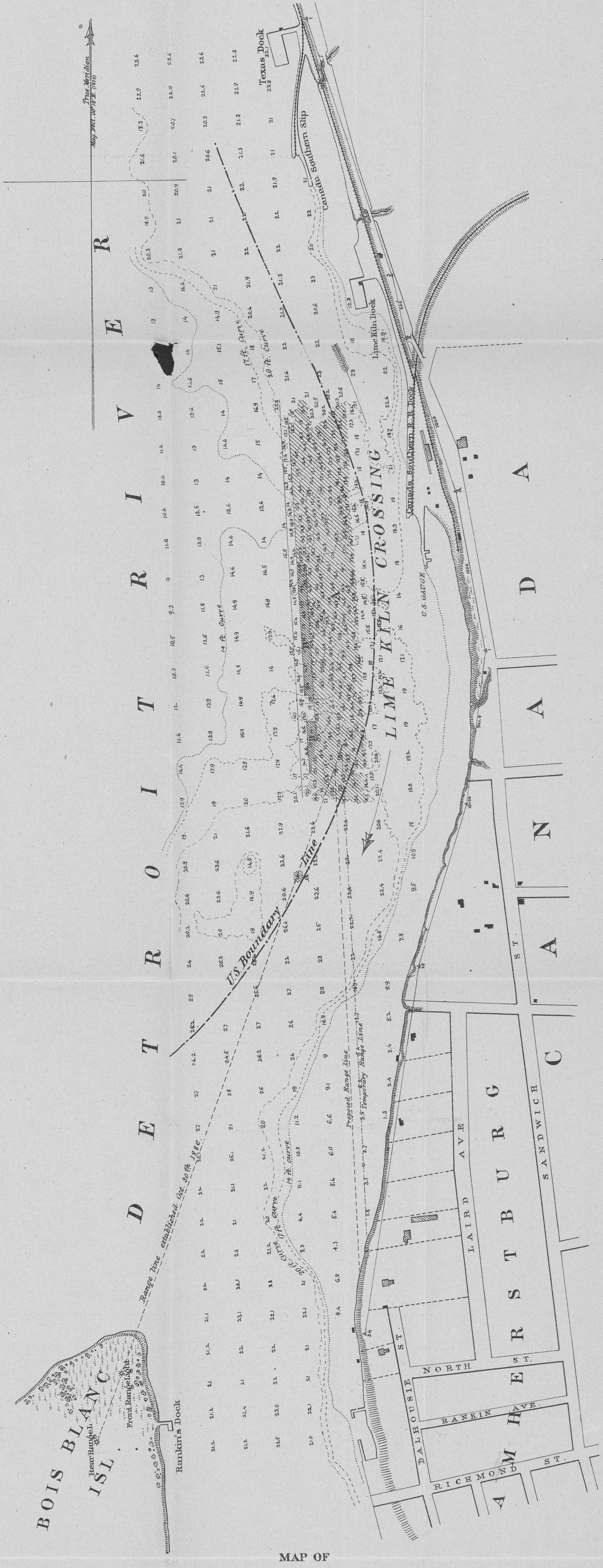
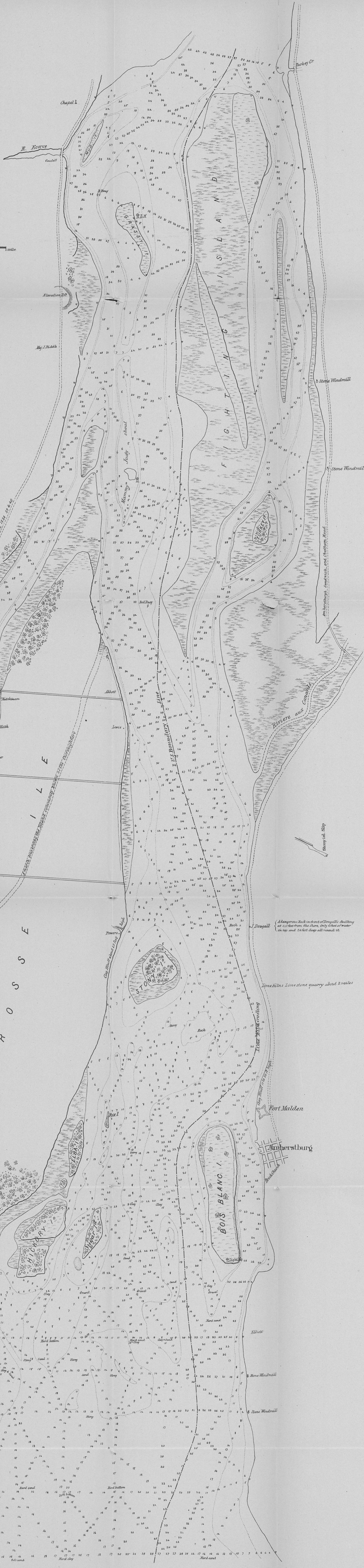
DETROIT RIVER

FROM LAKE ERIE TO
LAKE ST. CLAIR.

SURVEYED IN 1840, 41, & 42, BY
LIEUTENANTS J. E. MANROD AND W. H. WARNER
CORPS OF TOP ENGINEERS
UNDER THE DIRECTION OF
CAPTAIN W. G. WILLIAMS
CORPS OF ENGINEERS

The soundings are approximately true, and are referred to the water surface of the Detroit River as it stood during the month of July 1844.

Scale of miles.



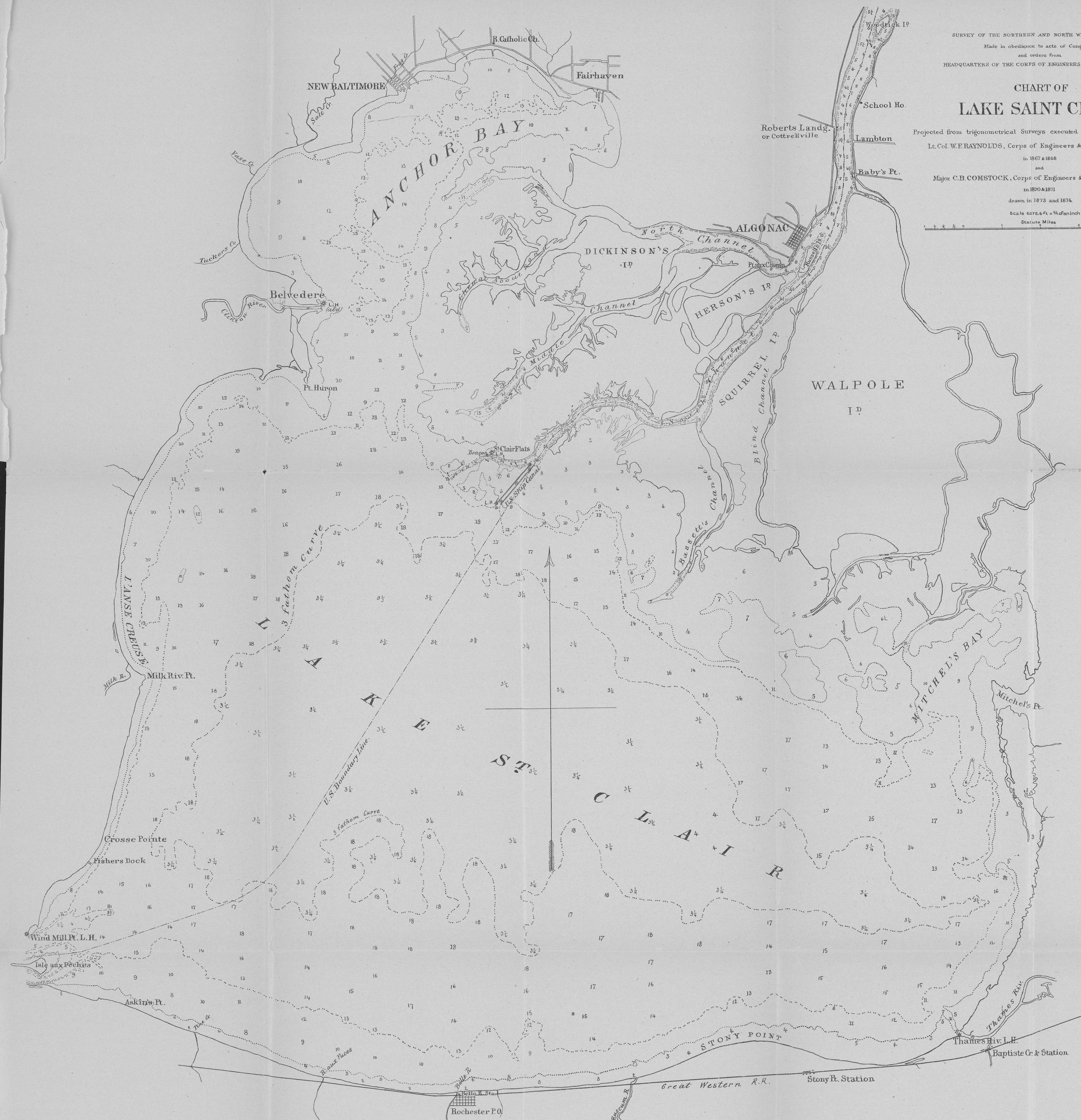
LIME KILN CROSSING DETROIT RIVER

(With the Boundary Line laid down)
Showing the completion of 300 ft. Channel and
Progress of Work on the West Side.

Made under the direction of
Lieut. Col. O. M. POE, Corps of Engrs., Det. Brig. Gen. U.S.A.
By H. Kallman, Asst. Engineer.

1887
SCALE 1:5000

Photo-Lith. by A. HOEN & CO.



SURVEY OF THE NORTHERN AND NORTH WESTERN LAKES
Made in obedience to acts of Congress
and orders from
HEADQUARTERS OF THE CORPS OF ENGINEERS WAR DEPARTMENT

CHART OF LAKE SAINT CLAIR

Projected from trigonometrical Surveys executed under the direction of
Lt. Col. W.F. RAYNOLDS, Corps of Engineers & Bvt. Brig. Genl. U.S.A.

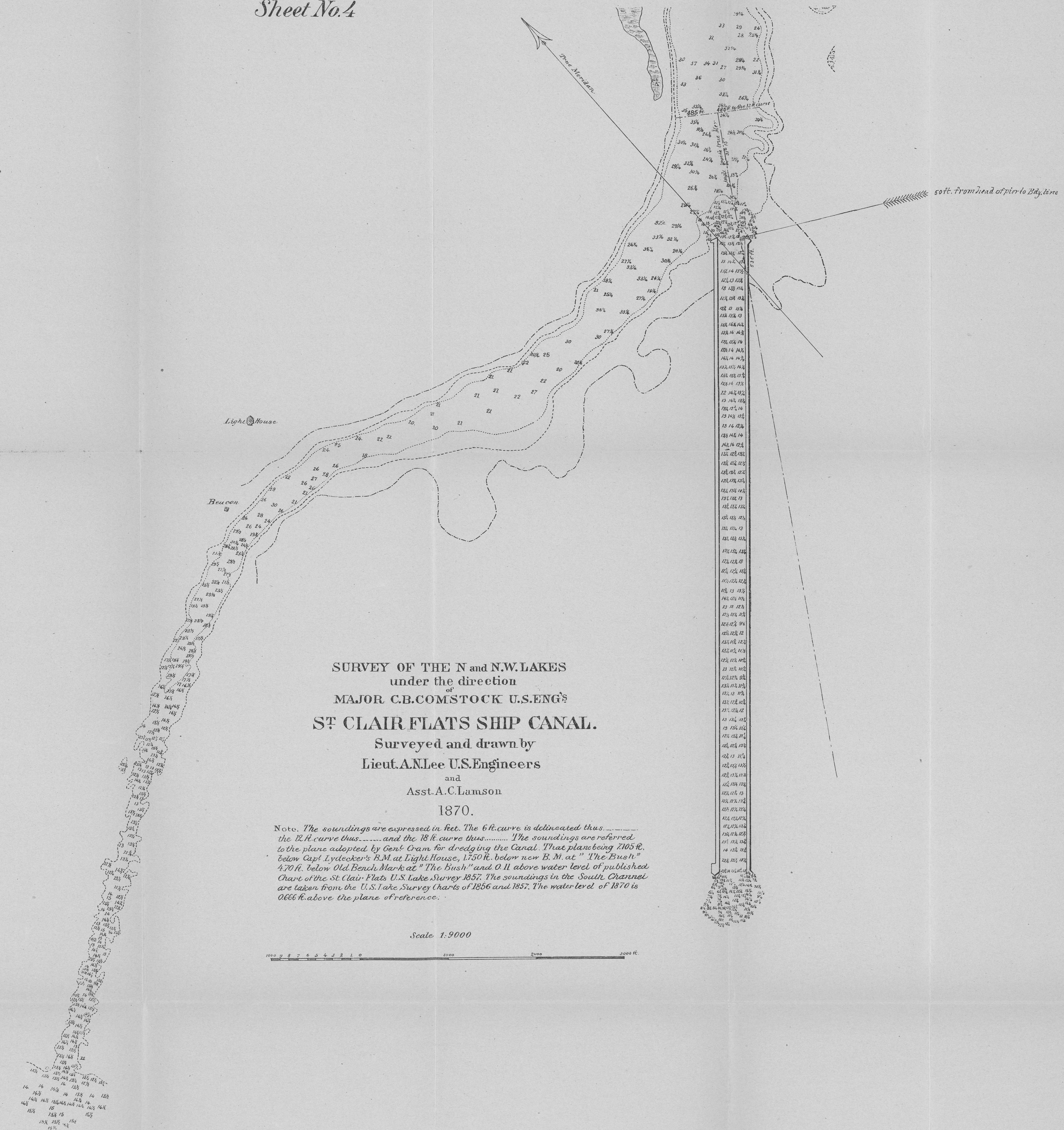
in 1874-1875
and
Major C.B. COMSTOCK, Corps of Engineers & Bvt. Brig. Genl. U.S.A.
in 1870-1871

drawn in 1875 and 1876

Scale 6076.6 Ft. = 1 Inch

Statute Miles

Sheet No. 4



SURVEY OF THE N. and N.W. LAKES
under the direction
of
MAJOR C.B. COMSTOCK U.S. ENG'S
ST. CLAIR FLATS SHIP CANAL.
Surveyed and drawn by
Lieut. A. N. Lee U.S. Engineers
and
Asst. A. C. Lamson
1870.

Note. The soundings are expressed in feet. The 6 ft. curve is delineated thus the 12 ft. curve thus and the 18 ft. curve thus The soundings are referred to the plane adopted by Genl. Cram for dredging the Canal. That plane being 7405 ft. below Capt. Lytle's B.M. at Light House, 1750 ft. below new B.M. at "The Bush" 470 ft. below Old Bench Mark at "The Bush" and 0 ft. above water level of published Chart of the St. Clair Flats U.S. Lake Survey 1857. The soundings in the South Channel are taken from the U.S. Lake Survey Charts of 1856 and 1857. The water level of 1870 is 0.66 ft. above the plane of reference.